

## **REMARKS**

Applicant has now had an opportunity to carefully consider the Examiner's action, and respectfully submits that the subject application is now in condition for allowance based upon the amendments presented herein and the following remarks.

### **Pending Claims**

The subject application was originally filed with 14 claims. In the Response to Restriction Requirement and Preliminary Amendment dated May 19, 2004, Applicant cancelled claims 1-14 and introduced new claims 15-42. Accordingly, claims 15-42 are now pending in the subject application.

### **Summary of Office Action**

In the Office Action dated August 11, 2004, the Examiner:

- (1) rejected claims 15, 20, 21, 25, 26, 34, 39, and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. 5,982,969 ("the '969 patent");
- (2) rejected claims 15-19, 22-24, 27-38, and 41 under 35 U.S.C. § 102(e) as being anticipated by U.S. 6,592,245 ("the '245 patent"); and
- (3) rejected claim 42 under 35 U.S.C. § 103(a) as being unpatentable over the '245 patent in view of the '969 patent.

### **Rejection under 35 U.S.C. § 102(b)**

Regarding the Examiner's rejection of claims 15, 20, 21, 25, 26, 34, 39, and 40 under 35 U.S.C. § 102(b), Applicant has amended independent claims 15 and 34 to include limitations that are neither taught nor suggested by the '969 patent. For example, the '969 patent fails to disclose a delineation marker or structure that is "configured to outline at least a portion of the contour of the road." Accordingly, Applicant respectfully requests that this rejection be withdrawn.

### **Rejection under 35 U.S.C. § 102(e)**

Regarding the Examiner's rejection of claims 15-19, 22-24, 27-38, and 41 under 35 U.S.C. § 102(e), Applicant has amended independent claims 15, 27, 34, and 41 to include limitations that are neither taught nor suggested by the '245 patent. For example, the '245 patent

fails to disclose the specific limitations recited in these claims related to the optical transmission tube. Specifically, the light guide system of the '245 patent neither discloses nor suggests use of a light emitting diode as a light source, which is required by amended independent claims 27, 34, and 41. Additionally, the light guide system of the '245 patent neither discloses nor suggests use of a substantially transparent optical transmission tube, which is required by amended independent claims 15, 27, 34, and 41. Furthermore, the light guide system of the '245 patent neither discloses nor suggests use of a reflective layer that is provided along at least a portion of the length of the optical transmission tube, which is required by amended independent claims 15, 34, and 41. Based on the foregoing, Applicant respectfully requests that this rejection be withdrawn.

Applicant also respectfully asserts that there is no suggestion or motivation, either in the '969 patent, the '245 patent or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings to arrive at Applicant's claimed invention. Absent suggestion or motivation in the '969 patent or the '245 patent to combine the references, it would be improper to combine the references in support of an obviousness rejection under 35 U.S.C. §103. To the extent that the Examiner disagrees with Applicant and rejects any of the claims under 35 U.S.C. §103, Applicant respectfully requests that the Examiner specifically cite the column number and line number(s) of either reference that indicates the motivation or suggestion to combine the references.

#### **Rejection under 35 U.S.C. § 103(a)**

Regarding the Examiner's rejection of claim 42 under 35 U.S.C. § 103(a), Applicant has cancelled claim 42 without prejudice to presentation of this claim, or the subject matter recited therein, in this or a later filed case. Accordingly, this rejection is now moot and Applicant respectfully requests that this rejection be withdrawn.

#### **New Claims**

Applicant has added newly presented claims 43 and 44 that are dependent from claims 15 and 34, respectively. Applicant asserts that newly presented claims 43 and 44 do not introduce new matter and consideration of newly presented claims 43 and 44 should not require an additional search.

### Conclusion

In view of the remarks above and the amendments presented herein, it is believed that claims 15-38, 40, 41, 43, and 44 are in condition for allowance and notice to such effect is respectfully requested. If the Examiner thinks a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at the phone number provided below.

The Commissioner is hereby authorized to charge any necessary additional fees, or credit any overpayment, to Deposit Account No. 02-2051, referencing Docket No. P00079US2A.

Respectfully submitted,

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